

WHY ARE BANKS ASKING QUESTIONS?

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'Know your client' (KYC) principle or why are banks asking questions?

Similar to worldwide practices, the banks in Latvia have an obligation to apply the **KYC** principle in accordance with the following laws and regulations:

- Law On the Prevention of Money Laundering and Terrorism and Proliferation Financing.
- Normative Regulations for Customer Due Diligence issued by the Financial and Capital Market Commission (FCMC).

The aim of the KYC principle is to take care of safe environment, to prevent the risks of money laundering and terrorism financing. To achieve this, it is the responsibility of all banks to take a risk-based approach to obtaining information on their customers and the source of their funds.

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What do the banks ask from their customers?

According to regulatory enactments (Section 28 of the Law on the Prevention of Money Laundering and Terrorism and Proliferation Financing), **the bank is entitled** to request its customers and **the customers have an obligation** to provide true **information** and **documents** necessary for the customer due diligence, including information on the beneficial owners, transactions executed by the customers, economic and personal activity, financial position, sources of money or other funds of the customers. In some cases, the bank may request additional information.

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Can customers refuse to provide information requested by the bank?

If a customer does not wish or refuses to provide information and documents for performing customer due diligence in substance, the bank will **terminate the business relationship** with the customer and require that the customer meets his/her liabilities before maturity. Therefore, it is important that the relevant information and documents are received promptly to successfully continue business relationship.



Customer due diligence, customer questionnaires, documents

Following the provisions of the above mentioned regulatory enactments and in order to implement the KYC principle, every bank is obliged to perform **customer due diligence** which includes the receipt of an application from the customer about opening an account, a customer questionnaire filled in by the customer, and to:

- identify the customer based on a **personal identification document**;
- verify whether a person is a **political exposed person**;
- acquire information about the personal or **economic activities**, and the **origin of funds** of the customer;
- obtain information on the **beneficial owner**;
- obtain information on the **purpose and intended nature** of the business relationship;
- establish the **tax residency** of the customer;
- ensure transaction **monitoring** and acquire information and documents, which support the of transactions carried out in the accounts;
- ensure that the documents, data and information obtained during customer due diligence are properly kept and **updated** on a regular basis.

A politically exposed person is:

- a person who holds or has held a **significant public position** in Latvia or abroad;
- a **family member** or a **relative** of a person who holds or has held a significant public position in Latvia or abroad; and
- a person, who is **closely related** to a person who holds or has held a significant public position in Latvia or abroad.

A beneficial owner is a natural person who:

- **directly/indirectly owns or controls** at least 25% of the undertaking's share capital or of total shares with voting rights, or otherwise controls the undertaking's activities;
- is directly/indirectly **entitled to a property** or directly/indirectly controls at least 25% of a legal non-business entity. The beneficial owner of a legal arrangement is a person or a group of persons, for whose benefit the legal arrangement has been established. The beneficiary owner of a political party, society or a co-operative company is the respective political party, society or a co-operative society;
- for whose **benefit or in whose interest** a business relationship is established;
- for whose **benefit or in whose interest** a separate transaction is made without establishing a business relationship.

Tax residency

The bank is obliged to establish the **customer's tax residency** and the taxpayer's registration number, where a customer is a tax resident in the country, which is involved in the global automatic exchange of information about financial accounts, or where a customer is a U.S. tax resident (Law On Taxes and Fees).

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What is customer identification?

According to the requirements of regulatory enactments, the bank's duty is **to identify the customer before entering into business relationship**.

The bank identifies a natural person by asking them to present a valid personal identification document in person.

The following personal identification documents are accepted: a passport (a citizen's passport, an alien's **passport**, a diplomatic passport, a service passport, a stateless person's travel document, an asylum seekers travel document, a travel document issued to a person granted an alternative status) and a person's **identification card** (the ID card of a citizen, alien, staff member of an international organisation accredited in Latvia, a diplomatic or consular office, a certificate issued to a person under temporary protection status).

When identifying a legal entity, the bank verifies documents which prove the following:

- the fact of incorporation or **registration** of the legal entity;
- information on the **legal address** of the customer;
- a power of attorney or other documents that entitle a person **to represent** the legal entity in a business relationship with the bank.

The bank identifies the customer remotely in accordance with normative regulations, if the bank's internal procedures stipulate this.

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Any information about a customer is confidential

It is the duty of a bank to guarantee the confidentiality of the identity, accounts, deposits and transactions of customers (Article 61 of the Credit Institutions Law).

Information regarding a customer and his or her transactions, which the bank acquires in providing financial services in accordance with concluded contracts, is **non-disclosable information**, which does not contain official secrets (Article 62, Paragraph five of the Credit Institutions Law).

Non-disclosable information at the disposal of a bank shall be provided to a State institution, State official or other institution and official (Article 63 of the Credit Institutions Law).

More information

- Law On the Prevention of Money Laundering and Terrorism and Proliferation Financing
- Credit Institutions
- Law On Taxes and Fees
- Recommendations for the creation of an internal control system for preventing money laundering and terrorism and proliferation financing and managing the risk of sanctions, and customer due diligence.
- Regulatory Enactments on the Creation of a System for Customer Due Diligence, Enhanced Customer Due Diligence and the Establishment of a Numerical Risk Assessment System and Information Technology Requirements
- Cabinet Regulation "Procedures for the Execution of Proper Control Measures of Financial Accounts by a Financial Institution and Provision of Information regarding Financial Accounts to the State Revenue Service"
- List of countries involved in the automatic exchange of information
- Information provided by the Financial and Capital Market Commission